

### **REMARKS**

Previously, claims 1, 2, 6, 9-11, 14, and 15 were pending. After applicant has reviewed the final office action from the examiner, the claims have been amended. In this office action, claims 10, 11, and 15 are amended, claims 1-9, 12-14, and 16 are cancelled, and claim 17 is added to describe the invention in a single claim using the features of claims 10 and 11.

In this final office action, the examiner has rejected the remaining claims for insufficient written description of the half channel as less than 10% of the jaw thickness. Applicant has removed the percentage of jaw thickness from claim 10 but retained the half channel diameter as less than the jaw thickness. As shown in the figures 1 and 4, the half channel diameter is less than the jaw thickness. As described in the specification on page 9, lines 229-231, the half channel diameter is slightly less than the axle diameter. As the axles straightened by the present invention see usage in model cars and the present invention withstands hammer blows, the half channel has a diameter noticeably less than the jaw thickness.

Second, the examiner rejected claims 10 and 11 again for obviousness but against the combination of the Bowman and Faull patents. As before, Bowman does show one jaw registering with another jaw using cooperating holes and dowels. Faull shows pins cooperating with holes to register two dies. The pins of Faull appear closely located to the edges of the dies as shown in FIG. 2. Faull shows additional bolts 23, 23.1 arrayed on the corners of the dies that fix the dies against translation. When bent tubing is placed into the jaws of Faull with the bend towards a pin, the bolts in combination with the pins prevent the dies from translating and thus force tubing to straighten. In contrast, the present invention has two dowels and holes alone. When a bent solid axle is placed into the jaws of the present invention with the bend towards a dowel and outside a half channel, the dowels alone resist translation of the jaws. The dowels of the present invention are located further inwards from the outside of the jaws to resist translation when the jaws are hit by a hammer.

Third, the examiner rejects claim 15 for obviousness against the combination of Honeycutt, Bowman, and Bowling. Honeycutt teaches of jaws closed upon hollow tubing to straighten it. The jaws are closed by mechanical leverage and need not be placed on a solid surface. In contrast, the present invention has two separate jaws for closing upon a solid axle to straighten it. The jaws are closed by the percussion of hammer blows when located upon a solid surface. Tubing requires a constant, graduated force for straightening while the percussion of hammer blows would crush tubing.

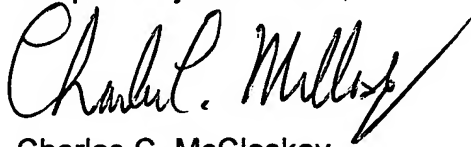
Bowman teaches of two jaws tethered by a chain in registry with dowels and holes. However, one Bowman jaw is bolted to a machine base whereas the jaws of the present invention are merely placed on a convenient solid surface, such as a basement work bench or floor.

Bowling teaches of a screw press that straightens a fraction of the length of an aluminum bat, likely hollow. The present invention though straightens the entire length of a solid axle in one operation. As before, it has not been shown how a user, user's sponsor, or let alone a machinist of ordinary skill, seeking to solve a problem of a crooked model car axle, would reasonably be expected to look to presses for copper plumbing tubing and aluminum baseball bats. Thus the elements from non-analogous sources such as Honeycutt and Bowling constructing the applicant's invention with the benefit of hindsight are insufficient for an obviousness rejection. See *In Re Oetiker*, 24 USPQ2d 1443, 1446 (Fed. Cir.1992); *In re Clay* 23 USPQ2d 1058 (Fed. Cir. 1992). Thus, obviousness cannot be established by combining teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting that combination. See the cases of *Ex parte Beuther*, 71 USPQ2 1313, (Bd. Pat. App. & Int. 2003); *In re Geiger*, 815 F2d. 686 (Fed. Cir. 1987); and, *Pro Mold & Tool Co. Inc. v. Great Lakes Plastics Inc.*, 37 USPQ2d 1626 (Fed. Cir. 1996).

However, to move the application towards allowance, the present invention is succinctly described in new claim 17. Claim 17 incorporates claims 10 and 11 as a single claim to the commercial embodiment of the invention.

All of the claims now active in this application are believed to be in condition for allowance. Favorable action by the examiner is respectfully requested.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles C. McCloskey", with a long, sweeping horizontal stroke extending to the right.

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